



October 26, 1999

Ms. Janice Marie Wilson
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR99-3021

Dear Ms. Wilson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128648.

The Texas Department of Transportation (the “department”) received a request for correspondence between the department and persons complaining about the release of “personal information” by the department, as well as other information relating to such complaints and the department’s actions in connection with the release of personal information. You advise that you are generally making the requested information available to the requestor, but you seek to withhold “motorists’ names, addresses, email addresses, and telephone numbers” contained in the information under sections 552.101 and 552.130 of the Government Code.

Section 552.101 requires withholding, *inter alia*, information made confidential by statute.

Section 730.004 of the Transportation Code provides:

Notwithstanding any other provisions of law to the contrary, including chapter 552, Government Code, except as provided by Sections 730.005 – 730.008, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Section 730.003(6) provides that for purposes of chapter 730 of the Transportation Code

“Personal information” means information that identifies a person, including an individual’s photograph or computerized image, social security number, driver identification number, name, address, but not zip code, telephone number, and medical or disability information. The term does not include information on vehicle accidents, driving or equipment-related violations, or driver’s license or registration status.

Section 730.003(4) provides

“Motor vehicle record” means a record that pertains to a motor vehicle operator’s or driver’s license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include a record that pertains to a motor carrier.

You contend that the information at issue “pertains to motor vehicle registration or titling and was obtained by the agency in connection with a motor vehicle record” and is thus subject to section 730.004. You also contend that none of the exceptions to confidentiality referenced in section 730.004 apply here. You say that three of the individuals whose personal information the department wishes to withhold have opted, pursuant to section 730.008, not to permit disclosure. Section 730.008 authorizes disclosure of personal information where the agency maintaining motor vehicle records has notified individuals to whom driver’s licenses, registrations, titles or identification documents are issued that personal information may be disclosed and provided an opportunity for such individuals to prohibit disclosure of their personal information.

You advise, with respect to the other individuals whose personal information the department seeks to withhold, that the department has been unable to determine whether the individuals opted for disclosure or non-disclosure.¹ You argue with respect to these latter individuals, however, that, as the requested correspondence with them relates to their complaints about the disclosure of their personal information, it is “obvious” they do not wish such information disclosed.

We agree that the information at issue should be treated as “personal information . . . obtained by the agency in connection with a motor vehicle record” within the meaning of the

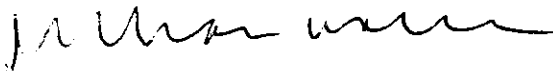
¹You indicate that the department has not identified a vehicle identification number or license plate number for the other individuals whose personal information is contained in the records at issue, that the department’s computer system does not allow searches for records by name alone, and that consequently the department cannot determine whether the other individuals have “opted out” of disclosure.

section 730.004 restriction on disclosure.² But for the departments's maintenance of motor vehicle records pertaining to them, the department would not have obtained the information at issue. Thus, with respect to those individuals whom the department has determined to have opted-out of disclosing personal information pursuant to section 730.008, we agree that the personal information you have marked must be withheld under section 730.004.

However, with respect to the individuals for whom the department has not been able to make such determination, we are also unable to determine whether such persons have opted-out of disclosure under section 730.008 and whether the information at issue is thus protected by section 730.004. We suggest that the department contact such individuals in order to obtain the information necessary to verify whether those individuals have opted to prohibit disclosure. If an individual has opted to prohibit disclosure, then his personal information should be withheld under section 730.004. If an individual has not opted to prohibit disclosure, or if the department is unable to verify that the individual has so opted, then the personal information must be released.³

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

²We note in particular that we believe that the email addresses at issue should be considered "address" information within the section 730.003(6) definition of personal information and thus subject to the section 730.004 restrictions on disclosure.

³We do not believe that these individuals' complaints about release of their personal information can themselves be deemed to effect the prohibition on disclosure provided for in section 730.008, since those complaints appear to relate to the release of such information under section 730.007(a)(2)(K) which provides for "bulk distribution" of personal information where the disclosing agency has provided individuals an opportunity to "opt out and prohibit those uses." See § 730.009 (agencies shall "distinguish between a request by a person under Section 730.008 to prohibit disclosure of personal information and a request under Section 730.007(a)(2)(K) by a person to prohibit disclosure of that information").

Ref: ID# 128648

Encl. Submitted documents

cc: Mr. Juan B. Elizondo, Jr.
The Austin-American Statesman
P.O. Box 670
Austin, Texas 78767
(w/o enclosures)